

**§ 71.25 Condition for certification.**

(a) When the Commissioner cannot conclude from the information before him that there is a basis for exempting a color additive from the requirement of batch certification, he will so order by appropriate listing in part 74 of this chapter. The Commissioner's order shall state in detail the specifications that shall be met by the color additive.

(b) Each order shall state a period of time after which use of a color additive subject to batch certification but not from a batch certified by procedure prescribed in this section would result in adulteration of the product in which it is used.

**§ 71.26 Revocation of exemption from certification.**

If information becomes available to the Commissioner that a color additive that has been granted exemption from certification should not, for the protection of the public health, be so exempted, such exemption will be canceled by a notice published in the FEDERAL REGISTER.

**§ 71.27 Listing and exemption from certification on the Commissioner's initiative.**

Where a petition for a regulation to list a color additive has not been received and the Commissioner has available facts which demonstrate that a color additive should be listed and/or that certification procedure is not necessary in order to protect the public health, he may list such color additive by appropriate regulation and listing in part 73 or 74 of this chapter.

**§ 71.30 Procedure for filing objections to regulations.**

(a) Objections and hearings relating to color additive regulations under section 721 (b) and (c) of the act shall be governed by parts 10, 12, 13, 14, 15, 16, and 19 of this chapter.

(b) The fees specified in § 70.19 of this chapter shall be applicable.

**§ 71.37 Exemption of color additives for investigational use.**

(a) A shipment or other delivery of a color additive or of a food, drug, or cosmetic containing such a color additive for investigational use by experts

qualified to determine safety shall be exempt from the requirements of section 402(c), 501(a), or 601(e) of the act, provided that the color additive or the food, drug, or cosmetic containing the color additive bears a label which states prominently, "Caution—Contains new color additive—For investigational use only." No animals used in such investigations, or their products, such as milk or eggs, shall be used for food purposes, unless the sponsor or the investigator has submitted to the Commissioner data demonstrating that such use will be consistent with the public health, and the Commissioner, proceeding as he would in a matter involving section 409(i) of the act, has notified the sponsor or investigator that the proposed disposition for food is authorized. Any person who contests a refusal to grant such authorization shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to part 16 of this chapter.

(b) The person who introduced such shipment or who delivers the color additive or a food, drug, or cosmetic containing such an additive into interstate commerce shall maintain adequate records showing the name and post-office address of the expert to whom the color additive is shipped, date, quantity, and batch or code mark of each shipment and delivery for a period of 2 years after such shipment and delivery. Upon the request of a properly authorized employee of the Department, at reasonable times, he shall make such records available for inspection and copying.

**PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION****Subpart A—Foods****Sec.**

- 73.1 Diluents in color additive mixtures for food use exempt from certification.
- 73.30 Annatto extract.
- 73.35 Astaxanthin.
- 73.40 Dehydrated beets (beet powder).
- 73.50 Ultramarine blue.
- 73.75 Canthaxanthin.
- 73.85 Caramel.
- 73.90  $\beta$ -Apo-8'-carotenal.
- 73.95  $\beta$ -Carotene.
- 73.100 Cochineal extract; carmine.